

April 8, 2010

RE: Request for Information on Child Labor, Forced Labor, and Forced or Indentured Child Labor in the Production of Goods in Foreign Countries and Efforts by Certain Countries To Eliminate the Worst Forms of Child Labor
75 Fed.Reg. 8402 (February 24, 2010)

The Government of the Dominican Republic (GODR) provides information to the U.S. Department of Labor (DOL) to assist the DOL in its preparation of two reports.

No single document can catalog all GODR efforts (and the many NGO, private sector, and GODR-supported efforts) being undertaken in the country that address forced or child labor. Other documents prepared in connection with related activities may include additional, relevant information for the DOL's inquiry.¹ The GODR also regularly meets with USG agencies and officials, in which they discuss GODR policies, procedures, programs, and initiatives that address the broad range of these issues and efforts. The DOL and other U.S. government agencies continue ongoing and often longstanding cooperative efforts with the GODR and other entities in the Dominican Republic. The GODR and the many NGOs that freely operate in the country have long engaged with the USG, international organizations (IDB, International Organization for Migration - IOM), NGOs and civil society to strengthen the protection of labor protections and prevent the manufacture or production of goods made with forced or child labor. The GODR encourages the DOL to actively seek out verifiable, factual information from a range of sources to enable it to undertake a comprehensive, fact-based, objective analysis of the current situation, policies, and programs in the Dominican Republic (DR).²

I. Analysis of Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005, Section 105(b) Applied to Goods Produced in the Dominican Republic

The Bureau of International Labor Affairs (ILAB) initial list published on September 10, 2009 of goods believed to be produced by child labor or forced labor in violation of international standards under the U.S. Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005 identified four sectors in the DR: coffee (child labor); tomatoes (child labor); rice (child labor) and sugarcane (forced labor and child labor).³

The GODR reviewed the available Bibliography for ILAB's initial TVPRA list, and shares some observations about the transparency, relevance, and probative value of some sources to any analysis.

- Lack of Access To Bibliography Sources that Formed the Basis for Inclusion on the TVPRA List of Products

The TVPRA "Methodology" description states: "To ensure a transparent process, ILAB did not rely on government classified information in developing the List." However, to obtain some of the Bibliography sources cited, individuals must file a federal Freedom of Information Act (FOIA) request. The TVPRA list extensively relied on U.S. State Department (DOS) reporting (e.g., U.S. Embassy Santo Domingo, reporting December 18, 2006; August 29, 2006; June 4, 2008; 18:41, June 4, 2008; May 10, 2007; and March 2, 2006.). Although a FOIA request was filed for those unclassified reports within days of the

¹ E.g., Report of Government of the Dominican Republic for Universal Periodic Review, UN Human Rights Council, A/HRC/WG.6/6/DOM/1, 27 August 2009.

² Primary source references are appended.

³ No goods were identified on the List of Products Produced by Forced or Indentured Child Labor under E.O. 13126 of 1999, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor; no public comments have suggested that it be included (DOL-2009-0002); and the GODR concurs that no such listing would be appropriate.



September 2009 publication of the initial TVPRA list, seven months later the DOS has yet to produce that source material. In fact, the DOS FOIA office said it might be up to 18 months before it will respond.⁴

This lack of disclosure is particularly troubling as even a cursory review of the TVPRA reference list reveals that the DOS reporting often is the only current source referenced. The failure to make that source material available undermines the goal of transparency, impedes meaningful analysis of how the ILAB could have reached the decisions to include particular products on a country list, and hinders positive responses to actual situations in a particular sector, should they exist. Moreover, in this second ILAB Request for Information, persons and entities who wish to provide meaningful information can only conjecture about what may or may not have been the basis for the DOL's prior conclusions.

- Timeframe for information cited as support for conclusions regarding sectors included on the initial list.

The TVPRA "Sources and Collection of Data" states: "ILAB sought to use the most current sources available. In general, ILAB used sources that were a maximum of 7 years old at the time we carried out research (2008-2009), consistent with our published methodology. However, ILAB made an exception to this maximum source-age policy in the case of child labor surveys. Given the slow-changing nature of the child labor situation in a given country, child labor surveys are carried out infrequently. For this reason, ILAB used some survey data that was a maximum of 10 years old (1999)."

Many Bibliography sources are older rather than more current. And some sources published 7 years ago are based on even older data and information (sometimes dating back 15 years).

- Relevance of Bibliography references

The TVPRA list is just that – a list. It includes no discussion and no analysis of the references cited. In the case of sugarcane, the only product listed for forced labor and child labor, no indication of which reference supports which conclusion is provided.

Each cited source must be deemed relevant. A careful reading of the source documents raises questions of relevancy or whether they would be the most informative source. One example is "Chapman, Sasha. 'Sweet Misery, White Death.' The Globe and Mail, March 8, 2008," which is a book review from the newspaper's food columnist of Elizabeth Abbott's "A Bittersweet History." According to the review, the author visited 5 (unidentified) bateyes in the DR. The book's 408 pages of text and 660 footnotes discuss the history of sugar throughout the world; the discussion about the industry in the DR and Haiti mostly is historical (starting hundreds of years ago). The book's mention of child labor in the DR is on page 396, where without reference the author writes: "Adolescent (and some younger) Haitians continue to work in Dominican cane fields, some alongside their fathers. Child labor is widespread in El Salvador ...". On pages 389 – 392, the author discusses the current sugar industry and states "Today, hundreds of thousands of Haitians cut Dominican cane" and have free housing in shared shanties without water, toilets and cooking facilities. This information simply does not reflect the current situation (e.g., less than 10,000 workers were hired for the last sugar harvest).

Attached as Tab 1 is an annotated and excerpted list of the Bibliography sources cited for the four products to draw ILAB's attention to sources that would appear to benefit from rigorous analysis.

- Definitions and Their Applications

Requirement of "Significant Incidence". The Federal Register notice recognizes that not every incidence of child or forced labor in the production of a particular good in a country can be generalized to characterize country conditions. The GODR appreciates that the ILAB will identify "the presence or absence of a *significant incidence* of these problems" as it reviews information on the nature and extent of

⁴ The International Labor Affairs Bureau (ILAB) responded to FOIA requests in a reasonable amount of time.

child labor, forced labor, and forced or indentured child labor in the production of goods in foreign countries. (emphasis supplied) While “significant incidence” is not otherwise defined, according to the Miriam Webster dictionary it would imply “of a noticeably or measurably large amount.” Thus, ILAB could not consider a report that a child was in the field where his parents were working as alone indicating child labor (much less a *significant incidence* of child labor) unless it had credibly established the age of the person, confirmed the child was employed, confirmed that the employer did not attempt to verify the worker’s age, and established such employment was found in measurably large amounts.

Forced/indentured child labor. “Forced or indentured child labor” is defined in the Federal Register Notice as “all work or service (1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or (2) performed by any person under the age of 18 pursuant to a contract the enforcement of which is accomplished by process or penalties.” (emphasis added) The element of “not voluntarily” or coercion is essential to the definition of forced child labor for the TVPRA process.

Forced Labor. Similarly, “forced labor” is defined in the Federal Register Notice under international standards as “all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily, and includes indentured labor. (emphasis added).”⁵ Analysis of status (undocumented because paid a smuggler to enter a country, entered on own without documents or was trafficked), whether the individual is applying for work or forced to work, the ability to leave employment, or evidence of the presence or absence of labor/worker rights is essential.

The initial TVPRA list identified only sugarcane as a product produced by “forced labor” (with the other listed products related to child labor, discussed below). The GODR not only believes that the facts and circumstances in this industry today fail to support inclusion of sugarcane on any list of products or goods made with “forced labor,” but also that no other sector in the DR is characterized by such conditions in the manufacture or production of a good.

Information Relevant to a TVPRA Analysis

The new Constitution of the Dominican Republic was approved in 2009 and took effect in January 2010. It specifically prohibits “slavery, servitude, and human trafficking” in all forms (Article 41), expressly prohibits forced labor (Article 62), and reiterates the government’s obligation to protect minors against sexual abuse and sexual, commercial, labor or economic exploitation (Article 56). As a matter of law, forced labor was specifically abolished in the DR in 1992 with the enactment of the Labor Code. Principle VII of the Labor Code prohibits any discrimination, exclusion, or preference based on reasons of (among other factors) national descent, social origin, political opinion, or trade-union membership. The DR has ratified the two ILO Conventions No. 29 and No. 105 on the abolition of forced labor.

The Dominican Republic faces significant challenges as a result of undocumented immigration. Its challenges have been made more daunting by the severe economic, social, security, political, and environmental crises in which its island neighbor Haiti has been embroiled for decades. Haiti’s longstanding situation is described by UN Security Council Resolution 1542 of 2004 that concluded: the “existence of challenges to the political, social and economic stability of Haiti and determining that the situation in Haiti continues to constitute a threat to international peace and security in the region.” The catastrophic earthquake Haiti suffered January 12th and its aftermath have heightened concerns about the exodus from Haiti to the DR, to the U.S., and elsewhere. Secretary Clinton on February 25 recognized the DR’s response to its neighbor’s plight: “The Dominican Republic has played a leading role in international rescue and relief efforts. Within hours of the disaster, Dominican officials and citizens from all walks of life began mobilizing and sending food, water, supplies, equipment and medical teams. Many lives were saved through this extraordinary effort, and some measure of hope restored to a shattered

⁵ Indentured labor is not a practice in the DR. Similarly, it DR does not have, and has not been identified as a country that has, situations involving slavery or practices similar to slavery, such as the sale of children, debt bondage and serfdom and forced or compulsory labor such as forced or compulsory recruitment of children for use in armed conflict.

nation. U.S. aid workers, medical personnel and troops are partnering with Haitians, Dominicans and people from around the world to support Haiti's recovery, and we appreciate the leadership and continuing commitment of the Dominican Republic." But not surprisingly, facing poverty, insecurity, and a lack of rudimentary basic services and employment many Haitians enter the Dominican Republic over the 243-mile land border, the control of which, for the most part, falls to the DR. As the UN Security Council Mission to Haiti reported on April 3, 2009, "[t]he visit by the mission to Ouanaminthe, on the north-eastern border with the Dominican Republic, provided a stark illustration of the daunting challenges facing the Haitian authorities in the area of border management. The members of the Council noted the permeability of, and free movement in, the border area and noted that little progress has been made on infrastructure. In that regard, the local authorities drew the mission's attention to the fact that despite the support received from MINUSTAH, they lacked the infrastructure and equipment to effectively manage the border with the Dominican Republic and emphasized the need to increase the Haitian National Police presence in the area, which currently stands at only 22 officers, bearing in mind the constraints posed by the lack of infrastructure." Most sources place the number of Haitians in the Dominican Republic between 800,000 and 1,000,000, or up to 11% of the DR's total population.

The vast majority of person who enter the DR without documents enter across the land border on their own volition and initiative, often employing smugglers. "Smuggling," by definition and at its core, is transportation-based, not exploitation-based. It generally involves the procurement, "to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a country of which the person is not a national or a permanent resident."⁶ Migrants cooperate with their smugglers, even seeking them out and paying them.

The individual who seeks out the smuggler and pays to be brought into another country will be residing in an undocumented (and not legal) status. Undocumented residents in the DR may encounter legal, political, economic and social challenges common to undocumented populations around the world. However, they are free to leave the country.

Many persons in the DR in an undocumented status seek employment. The law does not limit rights and protections under labor laws to persons legally in the country. At least as far back as 1977, the Supreme Court affirmed that a foreign worker without legal papers has the right to take legal action to claim for unpaid wages. Labor Code Principle IX establishes that both nationals and foreigners enjoy the same right to file a complaint about labor practices. The lack of distinction based on status is recognized by GODR agencies, and Labor Courts frequently rule in favor of workers who take legal actions to protect their labor rights. Ongoing litigation that began in the Labor Court of San Pedro de Macoris Judicial District exemplifies this protection. The court originally ruled for 500 Haitian agricultural day laborers who filed a lawsuit against a private sugar consortium seeking formalization of their labor contracts. The defendant successfully appealed, and the plaintiffs now have appealed that decision to the Supreme Court. At each stage, the courts have reaffirmed that Dominican Labor law extends protections to undocumented workers. Decisions have been made on the basis of whether claimants can prove they worked, not whether they were in a legal status when they worked.

In the sugar industry as in other industries, employees often organize and take work actions. As a recent example, sugar workers engaged in a company-wide worker action that led to negotiations about work conditions and an agreement on new procedures. The negotiated solution addressed concerns about the process for measuring worker output with new procedures that eliminate the middlemen and also increase efficiency and earning potential. No worker was discharged as a result of participating in the labor action, nor were sugarcane workers threatened with deportation because they engaged in the work action.

The Migration Law contemplates issuance of identification carnets of temporary workers in various sectors, including agriculture, if it faces a worker shortage. Employers are required to satisfy legal obligations on labor rights and conditions, provide employee information, provide transportation, and

⁶ See e.g., UN Protocol Against the Smuggling of Migrants By Land, Sea And Air, Supplementing The United Nations Convention Against Transnational Organized Crime (2000).

repatriate workers upon expiration of the permit. The Migration Directorate reports that in 2009 over 4,400 carnets were issued to workers (Haitian) for work in the agriculture and sugar sectors in various parts of the national territory. In the recent resolution of a labor disagreement with a sugar company, the workers and employer agreed to seek use of this carnet system until the workers could otherwise regularize their status and work authorizations.

The Dominican Social Security Institute (IDSS) and Ministry of Labor enforce labor standards with an active inspection program. In 2009, over 66,600 labor inspections were conducted. Regular and special (request driven) labor inspections occur throughout the country, and the Ministry of Labor conducts repeat inspections during peak sugar production seasons. Such inspections occurred on the three main private sugar companies in 2009, as in prior years.⁷ No “forced labor,” much less a “significant incidence” of forced labor, was encountered.

The GODR’s actions are proactive as well as enforcement or punitive measures. In May 2009, the Minister of Labor, as part of a forum on labor issues in the DR, convoked the first dialog that brought together Ministry of Labor officials, international organizations (ILO, IOM), Dominican and Haitian NGOs constructively engaged in the sector, worker representatives, other experts, and the three major sugar companies. The participants discussed the nature of the issues that confronted the DR, including those common to agriculture and the DR broadly as well as particular to sugarcane. Officials from the US Embassy participated as observers. That meeting has been followed by more targeted discussions to move the agenda forward. The next Labor Forum will be in spring 2010.

Mechanization of sugar production, the large population already residing in the DR, and cessation of government-owned plantations have reduced the need for workers in sugarcane. Privatization basically removed the government from the industry, though it still owns land that previously had been used to grow sugarcane. Today the major sugar companies only employ about 11,000 workers in total, as mechanization has reduced the number of workers needed to plant and harvest cane. Moreover, the number of workers in this sector continues to decrease with less than 10,000 workers required for the most recent harvest. The industry continues to address concerns about labor conditions. All three major sugar companies have joined the Better Sugarcane Initiative (BSI), an international certification organization. BSI audits production processes, respect for labor rights, and environmental compliance.

Even critics of the DR’s sugar industry and labor laws and practices today acknowledge that non-performance in the DR generally results in non-pay,⁸ that documented and undocumented workers prefer other sectors for employment to agriculture,⁹ and decreasing numbers of individuals each year are required for the sugar industry.

Allegations of labor-related coercion often extend to the residential sugar communities (“bateyes”), but these often are analytically inconsistent. On the one hand, laborers allegedly are forced to live on the bateyes. Yet, anyone can enter a bateye property and bateye residents are free to leave the property. Similarly, families live on bateyes, and a not uncommon situation is for persons residing in the DR to employ smugglers to unite their families in the DR. Other bateyes have incorporated into municipalities. Moreover, no reason compels residents to remain on those properties no longer associated with government sugar interests. These communities often consist of unemployed or elsewhere employed persons (e.g., service sectors or informal sectors in nearby towns).

⁷ E.g., January - June 2008 (San Pedro de Macoris (8), La Romana (1), Barahona (2)); 2007 (Independencia (8), San Cristobal (4), La Romana (3), and San Pedro de Macoris (18)); Dec 2007 Health & Safety inspections (San Pedro de Macoris & La Romana). And as in prior years, no instances of child labor were found.

⁸ The three major sugar companies all have employment policies that prohibit forced (and child) labor.

⁹ 2009 State Department Human Rights Report (March 2010) states in the DR “The daily minimum wage for farm workers covered by minimum wage regulations was 175 pesos (\$4.86), based on a 10-hour day, which includes all agricultural products except sugarcane. Cane workers were subject to a special, lower minimum wage for the sugar industry of 95 pesos (\$2.64) per day...All workers, including migrants, are covered by minimum wage provisions.” The Haiti Human Rights report states that in Haiti, “[m]ost citizens worked in the informal sector and subsistence agriculture, where minimum wage legislation does not apply, and daily wages of HTG 15 (\$0.37) were common.”

Improvements continue to be made to the private sugar community properties where many, but not all, employees reside. The 2009 State Department Human Rights report observed: "Private sector enterprises in the sugar sector continued to make improvements at their facilities, a process that began in 2007, including new schools and both new and renovated housing. In Nuevo Cayacoa, construction of a modern housing and community development for 132 cane workers and their families concluded its first phase in September." Inaugurated in September 2009, the first phase of the Nuevo Cayacoa community that provides for 132 Haitian and Dominican families involves an investment of more than US\$ 6.3 million. Grupo Vicini is consolidating other associated communities into three, larger new communities that will offer basic services, infrastructure, and public services. It works with NGOs to offer programs on its properties such as Espacios para Crecer (Spaces for Growth) and preschool programs that provide opportunities to children and options for parents. It has 14 medical centers and enrolls its employees with ARS Universal coverage, regardless of nationality. Central Romana has built 6,000 houses, of which 1,000 were given to Haitian employees and Dominicans of Haitian decent. In 2008 alone, it provided medical services to over 32,000 people at its 82-bed hospital (in 2008 provided almost 70,000 medical interventions), two health centers, three mobile medical units that provide both medical attention and preventative care, and a mobile unit that provides dental care primarily to children (about 6,000 annually); annually works with foundations such as Healing the Children to bring physicians to perform surgeries, many of them corrective; has dedicated 1,200 hectares for crops and provides other foodstuffs at below market prices; and has built 57 schools, operated by the GODR, that benefit over 8,000 children of its workers. It is building a new hospital annex that will expand the available resources and provide heliport access. Each of the communities near Consorcio Azucarero Central (CAC), operates leased CEA property; it does not have company-sponsored bateyes and its workers live in various municipalities. CAC provides transportation to worksites, medical services, the only ambulance in the area (non-CAC employees also may use), and shared kitchens for cooking, among other services.

Conclusion: Adults Do Not Labor Under Conditions of Forced Labor in Sugarcane or Other Sectors in the DR

Cutting cane is very hard work. But current labor conditions in the sugarcane sector do not indicate the existence of, much less the significant incidence of, work that is provided or obtained by force, fraud, or coercion by (1) threats of serious harm to, or physical restraint against any person; (2) means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or (3) means of the abuse or threatened abuse of law or the legal process.

Moreover, work conditions for adults in other sectors of the economy are not "forced labor" as that term is defined by the U.S. DOL or otherwise within the scope of the TVPRA list. The DR has long prohibited forced labor. It has a strong legal and regulatory framework that defines the conditions of work, and it is enforced. Workers in all sectors of the Dominican economy are legally able to exercise the rights and protections afforded them. The conditions that allow undocumented workers to enter the DR and seek work also allow them to leave that employment or the country should they chose to do so.

II. Information Relating to Elimination of Worst Forms of Child Labor (WFCL) and TVPRA Child Labor Sectors

This discussion is organized to follow the Federal Register Notice; however, not all information can be so clearly delineated and various aspects of the ILAB analysis applies both to the issues discussed under the topic of WFCL and to sugarcane, rice, tomatoes and bananas identified on the TVPRA list. I

The DR has made significant progress in reducing child labor. A 2008 OIT-IPEC publication reports a decrease in working child from about 436,000 in 2000 (last ILO study),¹⁰ to 247,000 in 2004, to 155,000 in

¹⁰ Of that total, less than 1% (17,000) participated in the labor force without also attending school.

2008, thus falling from over 18% in 2000 to 5.8% in 2008.¹¹

(A) *Laws and regulations proscribing the worst forms of child labor and regulating child labor*

The new Constitution specifically prohibits “slavery, servitude, and human trafficking” in all forms (Article 41) and reiterates the government’s obligation to protect minors against sexual abuse and sexual, commercial, labor or economic exploitation (Article 56). The DR already has a strong legal and regulatory framework that proscribes the worst forms of child labor in addition to protections afforded by the general labor legal and regulatory framework. The Ministry of Labor lists many DR laws on its website: www.set.gov.do.

Other obligations have their foundations in ILO and other international conventions that address child labor.¹² The Dominican Republic has ratified, among others:¹³

- ILO Convention 182 (Worst Forms of Child Labour), November 15, 2000
- ILO Convention 77 (Medical examinations for minors (industry)), June 1973
- ILO Convention 90 (Night Work by Young Persons (Industry)), 1957
- ILO Convention 81 (Labor Inspection) (1981) and 1995 protocol
- ILO Convention 138 (Minimum Age), June 1999
- ILO Convention 105 (Elimination of Forced and Compulsory Labor), June 1958
- Hague Convention 28 on the Civil Aspects of International Child Abduction
- Hague Convention 33 on Protection of Children and Co-operation in Respect of Intercountry Adoption, March 2007
- UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, December 2006
- UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime (2000), February 2008
- UN Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention against Transnational Organised Crime (Palermo Protocol of 2000), December 2007
- UN Convention on the Rights of Children, 1991

(1) *Legal framework defines the minimum age for admission to work, limited exceptions to the minimum age law, and minimum age for admission to hazardous work as well as establish strong, deterrent penalties*

Representative Laws:

- Labor Code 16-92, Articles 17, 245 – 254, 446, 720 – 724, prohibiting employment of children younger than 14 years, restricting employment of children ages 14 – 16, providing fines and legal sanctions against firms employing underage children
- Labor Code Principle II, prohibiting forced labor, and Principle XI, restricting child labor
- Law 136-03 (Code for Protection of Fundamental Rights of Children and Adolescents), legal obligations and rights, design and execution of policies, services and assistance, obligations of GODR and families, participation of NGOs)
- Law 49-00 (2000) creating Ministry for Youth (Secretaria de Estado de la Juventud) that represents the interests of persons ages 15 to 35 in relevant GODR agendas

¹¹ Amargós, Oscar for OIT-IPEC, “TRABAJO INFANTIL Y POLÍTICAS PÚBLICAS EN LA REPÚBLICA DOMINICANA: BALANCE AL 2008,” Proyecto: Fomento de una cultura de cumplimiento en materia laboral, Componente: Desarrollo de una Hoja de Ruta para hacer de Centroamérica, Panamá y República Dominicana una Zona Libre de Trabajo Infantil, No. ATN/SF-10219-RG, September 31, 2008.

¹² Ratified international conventions become part of the DR’s legal framework.

¹³ Comprehensive list of ILO convention ratifications: www.set.gov.do/legislacion/conv_internacionales.asp & webfusion.ilo.org/public/db/standards/normes/schedule/index.cfm.cfm?lang=EN.

Representative Decrees:

- 566-01, 59-06, 144-97 establishing and defining the responsibilities of the National Directive Committee Against Child Labor
- 522-06, defining the functions of health and safety inspectors

Representative resolutions:

- Resolution 37-05 (Provincial, Municipal and State Committees for Eradication of Child Labor)
- Resolution 30-93 (work by children without 14 years of schooling)
- Resolution 52-04 (hazardous and other unsuitable work for persons under age 18)
- Resolution 29-93 (light harvesting work)
- Resolution 31-93 (night work for minors in concerts and theatrical productions)

(2) *Laws further address the worst forms of child labor, such as forced child labor and trafficking or child prostitution and pornography, and establish strong, deterrent penalties*¹⁴

In addition to the legal protections outlined above:

- Labor Code, Articles 410 and 411, criminalizing child prostitution and pornography, prescribing penalties for sexual abuse of children of 20 to 30 years imprisonment and fines from 100 to 150 times minimum wage (and specifically transfer of child for purposes of forced labor, commercial sexual exploitation or other degrading activities, in exchange for compensation)¹⁵
- Law 136-03 (Protection of Fundamental Rights of Children and Adolescents), which includes a chapter on labor (Articles 34 to 44) and criminal penalties that ensure the liberty of children¹⁶
- Law 53-07 (Technology Crime Law), criminalizing electronic distribution of child pornography and prescribing penalties of 2 to 4 years imprisonment for the purchase or possession of child pornography
- Law 137-03 (Illegal Trafficking in Migrants and Trafficking in Persons), prohibiting all forms of trafficking, prescribing penalties of up to 20 years imprisonment for sex trafficking and fines up to 175 times monthly minimum wage, making involvement of public officials and death of victim aggravating circumstances
- Law 24-97, Law Against Intra-Family Violence

(3) *Enhanced Penalties Further Deter Activities Involving Child Victims*

Various laws enhance or add penalties when victims are children. For example, Law 136-06 Title IV, Criminal Jurisdiction, augments criminal penalties if a relationship of trust exists, an official is involved, or the intent is for trafficking, when the action involves:

- restrictions on liberty and abuse of a child¹⁷
- trafficking, with enhanced penalties for recidivism¹⁸

¹⁴ The attached Discussion Paper: Trafficking in Persons, the Dominican Republic, and the Government's Anti-Trafficking Commitment and Efforts provides additional information specific to these issues.

¹⁵ "Prostitution" and its related activities is prohibited by Criminal Code, Article 334 (as amended by Law 24-97).

¹⁶ See also Articles 204 and 391 (penalties for transporting unaccompanied minors without parental authorization).

¹⁷ Art. 395- 6 months to 1 year imprisonment and fine of 3 to 5 minimum salaries; Art. 396- 2 to 5 years imprisonment and fine of 3 to 10 minimum salaries; if person has authority, guardianship or trust position and severe injuries were incurred, maximum penalties imposed. Foreigners or nationals that commit act of negotiation, trafficking or a tie to trafficking or commercialization of children, maximum penalties doubled; Art. 397 Abuso Por Sus Responsables- 2 to 5 years imprisonment and fine of 1 to 5 minimum salaries; in all cases counseling required; Art. 398 No Supervisión De Adultos- 2 to 6 months imprisonment, counseling and social assistance referral required; Art. 399 No Comunicación de Apresamiento- 6 months to 2 years imprisonment and loss of position; Art. 400- Por Vejámenes y Otros - 6 months to 2 years imprisonment and loss of position; Art. 401 Falta de Ejecución de Orden de Libertad - 6 months to 2 years imprisonment; Art. 402 Incumplimiento de Plazo- 6 months to 2 years imprisonment and loss of position; Art. 403 Sanción por Sustracción - 2 to 6 years imprisonment and fine of 3 to 10 minimum salaries.

- media actions, including taking and misuse of child images¹⁹
- child sexual exploitation²⁰
- hotel and billiard hall owners and minors²¹

(4) *Regulatory Framework Reflects International Standards*

The laws of the DR also are consistent with the standards of international bodies, such as the ILO, and laws of developed countries, such as the United States under the Fair Labor Standards Act of 1938 (FLSA).²²

The ILO's International Programme on the Elimination of Child Labour establishes minimum ages at which children can start working and the type of work they can undertake:²³

	Minimum age to start work	Possible exceptions for developing countries
Hazardous work Work likely to jeopardize physical, mental or moral health, safety or morals	18 (16 under strict conditions)	18 (16 under strict conditions)
Basic Minimum Age Not below age for finishing compulsory schooling, which is generally 15.	15	14
Light work Does not threaten health and safety, or hinder education or vocational orientation and training.	13-15	12-14

¹⁸ Art. 404 Entrega de Niño, Niña o Adolescente a Cambio de Recompensa- 3 to 10 years imprisonment and fine of 10 to 30 minimum salaries; Art. 405 Retención y Traslado Ilícito (by responsible adult)- 2 months to 1 year imprisonment and fine of 1 to 10 minimum salaries; if repeat, 1 to 2 years imprisonment and fine 10 minimum salaries; Art. 406 Traslado Ilícito de Niño, Niña o Adolescente al Extranjero- 4 to 6 years imprisonment and fine of 10 to 30 minimum salaries; Art. 411 Fotografiar, Filmar o Publicar- 2 to 4 years imprisonment and fine of 10 minimum salaries.

¹⁹ Art. 407 Al Propietario o Director de Medios de Comunicación- 1 month to 1 year imprisonment and fine of 10 to 30 minimum salaries; Art. 408 Sanción por Utilizar un Niño, Niña o Adolescente o Difundir Imágenes- 1 to 5 years imprisonment and fine of 3 to 10 minimum salaries.

²⁰ Art. 409 Comercialización de Niños, Niñas y Adolescentes- 20 to 30 years imprisonment and fine of 100 to 150 minimum salaries; intent to commit penalized the same; Art. 410 Explotación Sexual Comercial de Niño, Niña o Adolescente- 3 to 10 years imprisonment and fine of 10 to 30 minimum salaries.

²¹ Art. 414 Hospedaje y Visita- 1 to 3 years imprisonment and fine of 30 to 50 minimum salaries; if repeat, juvenile judge closes establishment for 15 days; Art. 415 Permitir a Niños, Niñas o Adolescentes en Salas de Billar- 1 to 2 months imprisonment and fine of 1 to 3 minimum salaries.

²² 16 is the minimum age for nonagricultural employment, 14-and 15-year-olds may be employed for certain periods in jobs that the DOL has determined will not interfere with their schooling, health, or well-being; under age 14 year cannot work in formal employment unless covered by a specific exemption. Restrictions for 14-and 15-year olds are occupational (e.g., no work in manufacturing, processing, mining, or associated workplace; Hazardous Occupations work; use of power-driven machinery) and time (e.g., outside of school hours; not more than 40 hours in any one week when school not in session; not more than 18 hours in any one week when school in session; not more than 8 hours in any day when school not in session; not more than 3 hours in any day when school in session). U.S. federal law governing agricultural labor specifically exempts farm worker youth from minimum age and maximum hour requirements protecting other children. At the state level, 18 states have no minimum age for farm work; in some states, minimum age as low as nine or ten. U.S. law exempts child working in agriculture on a farm owned or operated by parent(s) from federal agricultural child labor provisions; regulates other farm workers under age 16 (e.g., age 12 or 13 - outside of school hours in nonhazardous jobs, only on farm on which parent works or with the written consent of a parent; under age 12 - outside of school hours in nonhazardous jobs on farms not subject to FLSA minimum wage if parent also is employed on farm or with parental consent; age 10 or 11 - hand-harvest short-season crops outside of school hours under special waivers granted by U.S. DOL.). U.S. DOL, Youth & Labor, Child Labor Statistics. Chapter 2: Child Labor Laws and Enforcement. November 2000. www.bls.gov/opub/rylf/pdf/chapter2.pdf (July 1, 2009).

²³ *International Labour Organization*. International Programme on the Elimination of Child Labor. ILO Conventions on Child Labour. <http://www.ilo.org/ipecc/facts/ILOconventionsonchildlabour/lang--en/index.htm>. (June 24, 2009).

B. The GODR's enforces prohibitions of hazardous child labor and forced child labor through agency-specific and cross-agency institutional mechanisms and actions

The Ministry of Labor is the lead enforcement agency of prohibitions on child and forced labor, with other agencies and officials integral components of the institutional framework in which such enforcement occurs. The 2009 SET budget represented a 67 percent increase dedicated to implementation of actions to combat child labor (to over RD \$21) from the 2008 budget;²⁴ the 2010 holds that allocation steady.

Labor inspectors are equipped to identify both adult and child labor situations.²⁵ As the overwhelming majority of workers are adults, most violations involve adult workers. In 2009, over 66,600 labor inspections were conducted (over 48,000 regular and over 18,000 special inspections). Infractions were levied in 4% of the inspections (an almost doubling); however, of the infractions less than one percent involved a child, and that often was a false or inaccurate documentation issue. In 2008, over 85,000 labor inspections were conducted; of the infractions, 1.24% involved protection of a child.²⁶ Similarly, in 2007 about 1% of labor penalties involved protection of a child.

The Attorney General's office prosecutes the range of crimes involving children. In addition to officials dedicated specifically to child labor situations, many other officials (federal, state and local), NGOs, and members of civil society are alert to such situations. The efforts of the GODR to more broadly sensitize the relevant communities to situations of child labor violations increases avenues to report suspicions and multiplies the GODR's ability to identify and assess potential situations.

Among the GODR agencies with relevant responsibilities are:

Ministry of Labor (Ministerio de Trabajo - SET)

- The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions; both IDSS and Ministry of Labor inspectors are charged with enforcing standards
- Over 200 trained labor inspectors represent an over 30% increase since 2006 and 5.7% increase from 2007; all must have a law degree, are hired through a competitive selection process, do not change with Administrations, and are required to attend additional training on a continual basis
- Unit of six Health & Safety officials authorized under Social Security system
- Dedicated child labor unit staffed by a multidisciplinary team that includes professionals in the areas of labor, social issues, psychology, statistics, communications, etc.
- Chairs National Committee Against Child Labor (Decree 144-97) that coordinates GODR policies and programs and includes the broad range of agencies and organizations, some NGOs, and other NGOs while they are undertaking projects relevant to child labor
- Coordinates cross-agency group of labor attorney generals; department of judicial assistance officials; and local networks of state (provincial), municipal and local committees throughout the country
- 38 local labor offices throughout the national territory
- Chairs National Directive Committee to Combat Child Labor, which coordinates federal efforts as well as works with the 31 municipal and 3 local committees that have established local child labor watchdog networks that bring together government sector, business, trade unions, and civil society

²⁴ See Implementation Plan for the White Paper Recommendations February 2009-July 2009 (available on ILO website).

²⁵ While the Ministry's specific authority is over the formal sector, its inspectors are alert to potential situations in informal sectors. Such situations maybe ones that the Ministry can address or Ministry officials can refer to other GODR agencies with appropriate authorities.

²⁶ In 2007, the total was almost 80,000 and in 2006 it was almost 58,000.

- Publication and diffusion of informational materials on labor issues, including child labor²⁷

Attorney General (Procuraduría General de la Republica - PGR)

- Investigators trained in child labor issues
- National Directorate of Anti-Narcotics and Complex Crimes (includes Department Against Smuggling of Migrants and Trafficking in Persons, Anti-Asset Laundering Unit, and Victim and Witness Protection Program Unit).
- Informatics Crimes Investigation Division to detect and prevent child pornography and prostitution
- Defensorías, or Offices of Ombudsman, for children, adolescents, and families, created under the Minors Code that represent the interests of minors before all authorities
- Victims Legal Services Department that achieved successful prosecutions, several involving abuse of minors²⁸

National Police (Policía Nacional)

- Dedicated officials, training and technical tools for child labor and sexual and commercial exploitation
- Politur, Tourism Police, trained to identify street children and able to them to various NGOs until they can be reunited with their families

Public Health Ministry (Ministerio de Salud Pública)

- Various activities involving child and adolescents related to the implementation of the social security law and programs
- General Health Law (Law 42-01)

Ministry of Education (Ministerio de Educación - SEE)

- Support and execute programs that create alternatives education for the prevention and eradication of the worst forms of child labor
- Produce training materials for teachers, parents, and others involved with child labor programs in primary school curriculums
- Radio programming that includes education campaigns on child labor issues

CONANI (Consejo Nacional para la Niñez y la Adolescencia, www.conani.gov.do), is an autonomous government entity with responsibility to oversee compliance with the obligations of Law 136-03 that has programs such as:

- Línea de Atención y Prevención Contra el Abuso Infantil program (hotline and information on child abuse) that received (estimated) over 500 calls in 2009
- National Center on Information Regarding Children and Family (CENINFA), in cooperation with the Supreme Court and Inter-American Children's Institute, promotes exchange of information between nation and international institutions that focus on children's issues, including child labor and sexual exploitation
- Lineamientos de políticas de protección integral de Niños, Niñas y Adolescentes en situación de calle en la Republica Dominicana (2007-2012) (Program on policies and protection of street children), which is aligned with the goals and objectives of the National Strategy for the Eradication of the Worst Forms of Child Labor and other GODR strategic initiatives

²⁷ SET's electronic informational bulletins in 2009 included the topic of child labor in the sugar sector; SET continued the radio program "Noticias Laborales," that addressed various labor issues.

²⁸ E.g., Trial Court of National District sentenced Juan Ramon Rosario Salazar to 30 years in prison and RD\$10 million in restitution for rape of his 10-year old daughter; June 2009, Trial Court of Second District of National District sentenced Robinson Batista (La Cura) to 3 years in prison for seducing a minor; Second Appellate District of National District sentenced Enmanuel Guerrero Alcantara to 30 years in prison for rape of 9-year old in March 2008; Jose Bonilla, manager of "Las Estrellas de Bonilla," sentenced to 10 years for sexual relations with a minor.

- Hogares de Paso (Temporary/Safe Houses) program

Ministry of Women

- Legal and Adoptions Department monitor adoption processes, including documentation requirements to prevent children from being abandoned or taken from their families

Judiciary

- Specialized tribunals for cases involving children with specially trained personnel, such as Family and Juvenile Courts
- Supreme Court and National Judiciary School (2005) approved five-year program to improve training and professional skills of labor prosecutors and other government lawyers involved in labor law administration²⁹
- Department for victims of abuse and intra-family violence

Migration

- Control of national borders and movement of persons across borders
- Special units focused on smuggling of persons

Foreign Ministry

- Established consular networks overseas to assist Dominican citizens trafficked to other countries to return to the DR
- Represents GODR with other country officials on identification and actions against suspected traffickers, smugglers, and other criminals

Office of First Lady

- Comprehensive Program for the Protection of Street Children and Adolescents in the Dominican Republic (Lineamientos de Política de Protección integral de niños, niñas y adolescentes en situación de calle en República Dominicana)
- *Progresando* program

Central Bank

- Includes indicator on child labor (ages 5 -17) in semi-annual surveys

National Statistics Office

- Category on child labor included in various surveys

Examples of events in which government officials involved in enforcement of child labor and hazardous labor situations participated:

- Workshop about national and international framework regarding the worst forms of child labor, San Juan de la Maguana, March 2009, 21 participants from different institutions related to child labor
- Implementation of the Community Project "Let's Change Child Labor through the Right to Education," supported by the City Council and presented by Municipal Union of Santiago, March 2009

²⁹ See "The Labor Dimension in Central America and the Dominican Republic, Building on Progress," April 2005.

- Workshop on validation of the Roadmap to Make Central America, Panama, and the Dominican Republic into Zone Free of Child Labor (Taller de validación de la Hoja de ruta para hacer de Centroamérica, Panamá y la República Dominicana una zona libre de trabajo infantil), Santo Domingo, March 19, 2009
- Educational workshop on ILO/IPEC SCREAM methodology, that promotes the defense of rights of children through education, the arts, and media/communication, Santiago, March 2009, 40 participants³⁰
- Preparation and dissemination of educational material as part of a series of tools related to WFCL and commercial sexual exploitation; materials created by ILO/IPEC, a judge and representative of PGR, July 2009
- Various activities commemorating World Day Against Child Labor, with ILO/IPEC sponsorship, and coordination with SET, Ministry of Women, CONANI, UNICEF, National Confederation of Dominican Workers (CNTD), la Coalición de ONG de la Infancia, and others
- 40 justice agents participated in seminar to train trainers on WFCL, two workshops for judges and members of the Public Prosecutor's Office on eradication of child labor, and 16 federal and local train the trainer workshops with 779 participants in 2008³¹

Examples of continuing activities include:

- Regular anti-trafficking training in General Directorate of Migration, often with assistance of IOM, for new immigration officials; child and trafficked labor included in the program of the Technical Migration School for aspiring Migration Control Officials
- Labor and Criminal judges training on child labor issues
- Prevention Unit of Department of Alien Smuggling and Trafficking in Persons, in coordination with the Ministries of Labor and Education, outreach to schools throughout the country to warn children of dangers of alien smuggling, commercial sexual exploitation, and trafficking
- 23 Labor Ministry training sessions for 436 employees involved in inspection processes

The 2003 ILO Baseline Study cited in the TVPRA Bibliography, though dated, explains different circumstances under which children work in agriculture. "In order to understand the phenomenon of child labour in agriculture, a distinction must be drawn as to the different circumstances under which it occurs: some boys and girls work alongside their parents in their family plots, others work or are instructed by their parents to go to work for other local small and medium landowners; still others accompany and work alongside their parents in plantations and finally there are those who are sub-contracted by foremen who are issued a direct contract with the big plantation's owner(s). In addition, others, especially girls, take care of younger siblings in the fields, or stay home to take care of domestic chores so that their parents and brothers can work in the fields."³² Many of these circumstances are reflected in the different regulations that govern such work in the DR (as is common in other countries).

Projects have focused on specific agricultural sectors. A 2006 ILO-IPEC publication "Good Practices for the Prevention and Progressive Eradication of Child Labor in Agriculture in Central America and the Dominican Republic" reviewed two projects (tomato and coffee) designed to combat child labor.

In evaluating a "Good Practices" project in Azua (tomato), the ILO assessed the reasons for success for the 75 "Activity Rooms" developed in 2003.³³ The World Vision – ILO-IPEC program worked with around 1,500 children and adolescents who remained in the education system. Frustration of children and families notably decreased and the Activity Rooms help avoid reincorporation into under-age labor. "...[T]he Activity Rooms constitute a good practice by lowering levels of absenteeism and exclusion from

³⁰ The 2009 workshops continue 2008 workshops for young leaders retired from child labor and school district personnel.

³¹ Verification Report on Implementation of the White Paper Recommendations, pp. 94 & 103, February 2009.

³² ILO. Trabajo Infantil Agrícola en República Dominicana: Síntesis de Estudios de Línea de Base. San José, 2003; available from www.ilo.org/ippecinfo/product/download.do?type=document&id=5015.

³³ "Good Practices for the Prevention and Progressive Eradication of Child Labor in Agriculture in Central America and the Dominican Republic" January 2006.

the school system in areas where child labor in agriculture is a reality. This model encourages children to remain within the educational system; it decreases repeating and helps to protect the right of vulnerable children, who are exposed to child labor in commercial agriculture, to an education.” The program was cited as inspiring the development of policies and programs in institutions such as Plan International and la Universidad Tecnológica del Sur.

“Good Practices” evaluated a project that developed from the Eradication of Child Labor in the Coffee Industry and Commercial Agriculture, Project on the Prevention and Gradual Elimination of Child Labor in Agriculture. It noted that in the main coffee producing areas, many families have small coffee productions. Families also may work on larger plantations during harvest seasons. In addition, migrant workers often are employed. The proposal was to provide diversification and viable alternatives through greenhouses for vegetable production. While the project was small, the ILO-IPEC concluded “The greenhouses proved to be an important alternative in order to break away from the production traditions of families and they are good instruments for the transfer of technology. Due to this initiative, in one year, families were able to significantly increase their level of production which resulted in an important income generator that contributed to the prevention of child labor.”

“Action On Child Labor,” the Labor Ministry/ ILO – IPEC project established through Visión Mundial, concluded in 2009. It focused on eight bateyes in Barahona, Batoruco and Independencia, and addressed trafficking, health conditions and work accidents. It provided options through school and recreational programs and medical and legal assistance. The program estimates it reached up to 1,400 children. ADESJO³⁴ is administering a program on Prevention and Progressive Elimination of Child Labor in Agriculture in Sabana Large in San Jose de Ocoa. Vision Mundial has a second phase program to Prevent and Eliminate Child Labor thorough Education in Pueblo Viejo, El Rosario, Los Negros, D1 Ganadero and las Barias de Azua. DevTech has a second phase (2008-2010) program on elimination of WFCL in Tourism and Agriculture in the eastern region (three projects) with Vision Mundial, Fundacion Pringamosa (Hato Mayor in bateyes), and FUNDECO (Fundación Unión y Desarrollo de Comunidades Campesinas) - Save the Children. It is working with AIDE et Action³⁵ on a program Prevention and Eradication of Child Labor Through Education in Bateyes of Duquesa and Los Cazabes.

Other programs that focus on the agriculture sector by definition will have spillover effects on child labor, such as Cultivar (banana) and Todas y Todos Trabajamos that focuses on workers in agriculture, domestic service, construction, and free zones and has developed four centers that provide information and advice with respect to legal rights and procedures.

C. The GODR enforces prohibitions against child trafficking, commercial sexual exploitation of children (CSE), and use of children in illicit activities through agency-specific and cross-agency institutional mechanisms and actions

The January 12 earthquake in Haiti heightened concerns about potential trafficking. The Governments of the Dominican Republic and Haiti, as well as NGOs (such as UNICEF) long committed to these issues, responded quickly to minimize these risks and address identified situations. GODR officials meet with their GOH counterparts and agreed upon protocols for movement of children across the border that would minimize the immediate and potential long term harm, yet confront trafficking risks. The most highly publicized situation, of course, was the 10 U.S. citizens arrested as they attempted to take 33 Haitian children from their country without required permission or documentation into the Dominican Republic, even though advised of the requirements by the DR Consul in Haiti.³⁶ Only one individual remains in custody and the charge of “organization of irregular trips” recently was added to suspicion of kidnapping;

³⁴ Asociación para el Desarrollo de San José de Ocoa (www.adesjo.org.do).

³⁵ French NGO that in LatAm works in Haiti and the DR (www.aide-et-action.org/english).

³⁶ In March 2010, GODR officials arrested the dual U.S.-Dominican citizen Jorge Puella (with U.S. Marshals and ICE agents present), who gained renewed notoriety as the legal advisor to the 10 U.S. citizens; he is wanted in Vermont on charges of human trafficking and alien smuggling (he also is wanted in El Salvador).

the other nine U.S. citizens have been returned to the U.S. But GODR officials are alert to and have detained other suspects who have not garnered such media attention.³⁷

Enforcement actions for trafficking, CSE, and other illicit activities by definition will be cross-agency. The various GODR initiatives discussed below reflect that reality.

(1) *The overwhelming majority of undocumented border crossings into the Dominican Republic involve smuggling or voluntary crossings, not trafficking*

Dominican authorities act against persons who bring undocumented persons across the Haitian border (trafficking or smuggling), and surrender them to the legal system. Yet, the task of patrolling the border is daunting. As noted above, the UN Security Council Mission to Haiti in April 3, 2009 reported: "The visit by the mission to Ouanaminthe, on the north-eastern border with the Dominican Republic, provided a stark illustration of the daunting challenges facing the Haitian authorities in the area of border management. The members of the Council noted the permeability of, and free movement in, the border area and noted that little progress has been made on infrastructure. In that regard, the local authorities drew the mission's attention to the fact that despite the support received from MINUSTAH, they lacked the infrastructure and equipment to effectively manage the border with the Dominican Republic and emphasized the need to increase the Haitian National Police presence in the area, which currently stands at only 22 officers, bearing in mind the constraints posed by the lack of infrastructure."³⁸

Cross-border movement must be viewed in the context of the countries from which persons come and to which they go. Haiti has been embroiled in economic, social, security, political, and environmental crises for decades. Not surprisingly, facing poverty, insecurity, and a lack of rudimentary basic services and employment many Haitians enter the Dominican Republic over the land border.

This reality affects the cross-border movement of children and potential trafficking. The still quoted 2004 UNICEF report with the frequently cited statistic of 2,000 children "trafficked" across the Haiti-DR border each year also concluded that the majority of border crossings involving minors were for purposes of family reunification. Yet that important qualification often is lost when the 2,000 statistic is repeated.

(2) *A Range of GODR Agencies Are Engaged in Enforcement of Prohibitions Against Child Trafficking, Commercial Sexual Exploitation of Children, and Use of Children in Illicit Activities*

Many of the same GODR agencies involved in child labor investigations have significant roles in the efforts to combat child trafficking, commercial sexual exploitation of children, and other uses of children in illicit activities.³⁹ To the extent that their work discussed above encompasses potential situations of trafficking, CSE, or other illicit activities, they are not repeated in this discussion. This discussion instead focuses on additional structures that reflect different enforcement demands for these specific activities.

The DR's anti-trafficking and CSE commitment spans from the highest offices in the DR to public information campaigns. The First Lady, Margarita Cendeno de Fernandez, frequently and publicly addresses issues of smuggling and human trafficking. At the "Crossroads Conference: Private-Public Partnership to Fight Human Trafficking" in Bahrain in March 2009 she discussed "National Strategies for Combating Human Trafficking." The GODR, NGOs, and others have active public education and information activities on prevention. The Office of the First Lady, through *Progresando*, has created workshops for managers and supervisors so they can reach out to socially vulnerable families about the risks of human trafficking. The project is in Santiago, Santo Domingo, Monte Plata, Samana, and El

³⁷ See www.nytimes.com/aponline/2010/02/23/world/AP-CB-Haiti-Americans-Detained.html?_r=1&pagewanted=print (Feb. 14 & 15 CESFRONT rescued 12 girls and 10 boys between ages 7 and 16 brought by Haitians illegally crossing border in ATVs).

³⁸ S/2009/175.

³⁹ The attached Discussion Paper: Trafficking in Persons, the Dominican Republic, and the Government's Anti-Trafficking Commitment and Efforts discusses these efforts in greater detail. ILO/IPEC reports six pending complaints for CSE and trafficking, one of which is in the judicial process and one that has resulted in penalties for CSE in Santiago.

Ceibo. The Franklin Center provided financial support for brochures distributed during visits. COIN⁴⁰ has published various prevention materials: Foreign Travel: Illusions and Lies; Prevention of the Sexual Exploitation of Minors. Some GODR information campaigns about the dangers of and penalties for trafficking are:

- Attorney General La Ley Pega Fuerte ("The Law Hits Hard"), with written fliers and brochures.
- Migration Directorate No Al Comercio Humano ("No to Human Commerce")
- Navy Campaña Contra Los Viajes Ilegales ("Campaign Against Illegal Travel")
- Ministry for Women (supported by Fundación Institucionalidad y Justicia (FINJUS) 2nd phase) Impresión Popular de la Ley 137-03 ("Understanding Law 137-03")

Notices posted in Santo Domingo's International Airport of the Americas list the penalties under Dominican law for the criminal offense of commercial sexual exploitation of children or adolescents.

Recognizing that cross-border illicit activities often are not limited to a single crime, the National Directorate of Anti-Narcotics and Complex Crimes, which includes the Department Against Smuggling of Migrants and Trafficking in Persons, the Anti-Asset Laundering Unit, and the Victim and Witness Protection Program Unit, have three Special Prosecutors for Illicit Traffic in Persons and other crimes and five Specialized Prosecutors for Money Laundering. The Directorate will "intervene directly in the conduct of the investigation of drug crimes and those crimes which, because of the multiplicity of facts, the large number of defendants or victims, as well as means for their commission, are classified as complex cases such reasons necessitating a specialized body of research, among which are financial crimes and trafficking in persons ...". In 2009, one of the investigations opened involved potential smuggling of five people (including two minors) by a pilot with Puerto Rican nationality. In that prosecution, the National Directorate of Anti-Narcotics and Complex Crimes broke new ground in prosecutorial tools when the trial judge admitted a judicially-authorized videotaped interview from Santo Domingo with a Cuban national in Miami, Florida, the first time such technology has been used in a proceeding.

Smuggling and trafficking often require cooperation and coordination with law enforcement officials in other countries.

Other examples reported in the media that involve smuggling and minors include:

- July 2009, the Dominican border police, CESFRONT (created in 2006), arrested 6 Haitians smuggling children from Haiti to the DR; those with pending legal actions in Haiti were released to Haitian authorities. One of these, Martha Jean Guise, was identified as a repeat offender using new biometric screening system recently installed on the Dajabón border.
- December 4, 2008, Army intelligence unit patrolling the border targeted and detained suspected repeat trafficker Expedito Rodríguez, who was driving a vehicle with 12 men, 4 women and 2 children from Haiti. The undocumented Haitians were released to the Migration Department and returned to Haiti.

Attention has been drawn to children who beg on the streets in the Dominican Republic.

- A 2004 report supported by the Catholic Institute for International Relations (CIIR) found: "Haitian children begging on street corners in Santo Domingo and other major cities such as Santiago, and the smuggling of Haitian minors into the country, has been a new cause for concern. There are no known cases of sexual exploitation."⁴¹
- In Santiago, the Special Prosecutor and Migration Directorate are working together to crack down on persons who bring children of Haitian descent into the city to beg for money, and at the end of each day collect the children and take all or a portion of the money they collected.

⁴⁰ Centro de Orientación e Investigación Integral.

⁴¹ Needed But Unwanted, Haitian immigrants and their descendants in the Dominican Republic," Catholic Institute for International Relations (CIIR), 2004, p. 62.

- The Anti-Narcotics and Complex Crimes unit has investigated allegations of children trafficked specifically for this purpose or smuggled into the DR and then abandoned with no alternative than to beg in the streets. In investigations that included surveillance and monitoring of activities for 24-hour periods and documented by photographs, filming, and follow-up interviews, children engaged in these activities were determined to be living with their parents in the DR. An individual (another parent, neighbor, friend, etc.) may, with parental consent, take a group of children to beg in the streets, returning them to their homes in the evenings. While not a practice to be condoned, such children are not trafficked or smuggled into the DR for such purposes.

The GODR and various organizations continue to address sex tourism, a business generally supported by foreign tourists often from Western Europe (i.e., Spain, Italy, and Germany), though some from Canada and U.S. The efforts focus on high volume tourism areas such as Las Terrenas, Sosua, and Boca Chica. NGOs conducted programs on prostitution and child sexual exploitation for hotel and industrial zone workers, male and female prostitutes, and other high-risk groups. Investigative teams from the Anti-Narcotics and Complex Crimes Unit and the U.S. ICE have established a permanent presence in Boca Chica to address CSE and identify potential perpetrators. The SET and ILAB are discussing new programs in this sector.

The Attorney General's office has developed awareness and education work carried vulnerable areas, for the crimes of smuggling of persons and trafficking in persons, focused on increasing awareness among the local government leadership on the issues.

The practice of domestic work by Haitian children (usually girls) was widely discussed in the aftermath of the January earthquake. UNICEF estimated as many as 100,000 girl domestic workers in Haiti in 2007 are sent to other homes by their parents for better socioeconomic opportunities than exist in Haiti. Some are sent to the DR, often to relatives. PADF Deputy Director Coughenour observes that extremely poor Haitian parents often give up their children thinking that they will have a better life in another family's home. "Unfortunately, sometimes unscrupulous adults force children to work, become prostitutes or get involved in gangs."⁴² A 2004 fieldwork-based study uncovered no evidence that children are kept in Dominican homes as slaves, evidence of trafficking such children, or involvement by ethnically Dominican brokers or traffickers in intra-Haitian arrangements.

Information on potential trafficking, CSE, and other illicit activities comes to GODR enforcement agencies from a variety of sources, demonstrating the broad awareness with the GODR and NGO community to such situations. Campaña Internet Sano (Clean Internet Campaign), for example, in 2009 received 400 calls to their assistance and complaints hotline; opened an investigation for sexual abuse of a minor for Child Grooming; opened an investigation on cyber-bullying; and closed 7 webpages for child pornography content.

C. The GODR has instituted effective government policies on child labor that include government policies or plans, funded and otherwise, on regarding the worst forms of child labor⁴³

The GODR responded to emerging situations from the January 12 earthquake in Haiti and its aftermath. GODR officials, NGOs and the GOH quickly took actions to protect individuals from potential traffickers. Under agreed protocols to prevent the improper movement of children across the border, in the days following the earthquake and working with UNICEF, CONANI accepted approximately 600 Haitian children, the majority of whom have families, and provided psychological protection, food, and medicine. Fending off allegations of "trafficking," CONANI, UNICEF and the Ambassador of Haiti in the Dominican Republic explained the agreement that the Haitian Ambassador would be the one who granted permission for a child to leave the country.

⁴² See "Congress Told of Exploitation, Trafficking of Impoverished Haitian Children," news.yahoo.com/s/usnw/20090519.

⁴³ Companies also have policies against child labor, e.g., one sugar company's zero tolerance policy, included in its Code of Conduct, requires dismissal for hiring a child laborer and termination of a contract by a colono (independent supplier) found to have used child labor.

Recognizing programs aimed at eliminating the Worst Forms of Child Labor, the U. S. Department of Labor on January 14, 2009 reported to the U.S. Congress in "Progress in Implementing Capacity-Building Provisions under the Labor Chapter of the Dominican Republic – Central America – United States Free Trade Agreement." In the area of "Child Labor" the report stated, "Public awareness campaigns have been conducted, prevention and care programs have been developed, and a Child Labor Monitoring System has been launched in the agricultural sector, with pilot projects operating in San Francisco de Macoris, Azua, and Costanza. These actions and training activities have been undertaken with employer and worker organization participation that are integral to the National Strategic Plan for the Elimination of Child Labor 2006-2016 and The Plan against Commercial Sexual Exploitation of Children 2003-2013."⁴⁴

Other policies include:

- November 2009 "Dominican Republic Route to Being a Country Free of Child Labor and Worst Forms of Child Labor" integrates many ongoing activities as well as sets forth the roadmap to achieve the Hemispheric Agenda for Decent Work in the Americas (2006-2015), announced during the XVI Regional America Meeting of the ILO (Brasilia, 2006)⁴⁵.
- The "National Strategy for Eradication of Worst Forms of Child Labor in the Dominican Republic (2006-2016)" sets objectives, identifies priorities, and assigns responsibilities so that exploitive labor can be efficiently and systemically confronted, and the number of child laborers significantly reduced by 2016. Representatives from the Ministry of Labor, labor unions, and employer organizations have signed a tripartite declaration for the National Program of Decent Work, which supports the National Plan to Eradicate the Worst Forms of Child Labor. It meets formally every two months, has approved 17 institutional operational plans, and involved over 80 NGOs, members of civil society, and the media in the creation of the strategy.
- Inter-Institutional Commission Against Child Abuse and Commercial Sexual Exploitation, created in 2001 and co-chaired by CONANI and the Ministry of Labor. Participating organizations include: Ministry of Education; Ministry of Foreign Relations; National Police; Ministry of Public Health; Ministry of Women; Supreme Court; PGR; Fiscalía of the National District; Instituto de la Familia; Ministry of Tourism; Politur; Migration Directorate; Instituto Interamericano del Niño (IIN); Muchachos con Don Bosco, Visión Mundial-RD; Proyecto MAIS; Proyecto Caminante; Coalición ONG; UNICEF; and IPEC/OIT. The Commission has a Technical Executive Committee (CDN) and operating committee to ensure application of policies.
- The "Action Plan for the Eradication of Abuse and Commercial Sexual Exploitation of Boys, Girls, and Adolescents" (Plan de Acción de la República Dominicana Para Eradicar El Abuso y La Explotación Sexual Comercial De Niños, Niñas y Adolescentes) of 2006 creates the coordinated efforts to combat commercial sexual exploitation. Over 600 institutions (governmental and non-governmental, businesses and labor unions) throughout the national territory are allied with the National Directive Committee, local Directive Committees, and the Commission against Abuse and Commercial Sexual Exploitation.
- The National Commission against Trafficking in Persons (CITIM) draft plan, being finalized

⁴⁴ Criticism has been levied that the DR does not create a new, separate line item allocation for an initiative. As "plans" or "strategies" do not create new legal entities, under law they cannot be assigned resources *per se* from the national budget. Every new, reorganized, expanded, or better coordinated approach to address issues cross-agency requires each contributing agency and entity to dedicate its allocated resources.

Such criticism is akin to another (and until recently perennial) criticism -- the DR does not allocate 2% of its national budget to CONANI, a decentralized public agency, and municipal government budgets fall short of 5% to projects that "benefit" children. However, the government did not meet the law's stipulation that [CONANI] receive at least 2 percent of the national budget and that a minimum of 5 percent of municipal government budgets be devoted to projects to benefit children." One agency's allocation under the national budget cannot reflect a government's commitment to "children's rights and welfare." It is equally untenable to ignore the broader context of "allocations." The GODR also does not meet similar budget stipulations for the Ministry of Education, the Congress, the Municipal Governments, the UASD (public university of Santo Domingo), the Judiciary Branch, the Attorney General's Office, the Junta Central Electoral, the political parties, the Ministry of Youth, and other agencies and entities. If the GODR allocated all the laws' assigned percentages to designated institutions or agencies, the government would be faced with the option of not investing in health care, building and repairing roads and bridges, funding national security projects, and honoring foreign debt payments - to name a few examples.

⁴⁵ Among the specific objectives is "progressive elimination of child labour", with the goal to eliminate the worst forms of child labor within 10 years (2015) and eliminate child labor completely within 15 years (2020).

internally, includes efforts to combat trafficking of all persons. President Fernandez formed CITIM to develop and coordinate the national strategy to combat trafficking, collaborate in international activities, and propose appropriate legislative initiatives. Its draft National Action Plan Against Trafficking in Persons and Illegal Trafficking in Migrants (2009-2014) provides the roadmap, concrete actions, and benchmarks for strengthening efforts to combat trafficking.

- Comprehensive Program for the Protection of Street Children and Adolescents in the Dominican Republic (2007-2012)
- May 2008, Vice President Rafael Alburquerque agreement with the ILO (OIT), reaffirming the Dominican Republic's commitment to eliminating all forms of child labor.
- July 12, 2008, public declaration of Intentions and Commitment of Action to Eradicate the Worst Forms of Child Labor in the Dominican Republic signed by 13 governmental and civil society institutions.

Legal distinctions define whether a situation involves hazardous child labor, forced child labor, commercial sexual exploitation of a child, or trafficking. Many institutional mechanisms and actions, especially in areas that include components of prevention and protection of children, do not draw such distinctions. Their focus is on vulnerable or at-risk children, without regard for the specific reason for the risk. For example, in January 2008 the GODR and U.S. Department of Labor (DOL) announced their support for the multi-year second phase (2008-2010) of "Educando para combatir la explotación laboral infantil," a \$5 million project administered by the Dominican NGO EDUCA (Acción para la Educación Básica) and DevTech Systems. Related to that effort, in March 2008, INFOTEP (Instituto Nacional de Formación Técnico Profesional) and EDUCA agreed to implement a program that will provide technical training to 2,500 young people in vulnerable circumstances. The Labor Ministry's "Action On Child Labor" for bateyes in Barahona, Bahoruco and Independencia, established through Visión Mundial República Dominicana, focused on trafficking, health conditions and work accidents, and providing options through school and recreational programs and medical and legal assistance.

The GODR participates or supports (alone or jointly) various projects, and as examples:

- The National Directorate for Assistance to Victims coordinates official and NGO efforts to assist child victims of violence and abuse. Programs provide psychological support and medical assistance, return children to classrooms, and reunite children with their families and communities when possible. Victims have access to a Casa de Acogida from the time they come into contact with the Attorney Generals' office. The Inter-Institutional Commission Against Abuse and Commercial Sexual Exploitation's program of victims assistance implemented by Safe Houses specializes in caring for this population and provides both assistance and training to avoid re-victimization. Church-run shelters also provide refuge to children escaping prostitution.
- June 12, 2009 World Day Against Child Labor was the graduation day for 2,000 children from the *Espacios Para Crecer* (EsPc) program. There are now 248 Espacios classrooms throughout the DR.⁴⁶ As noted, the second phase announced in 2008 is designed to reach 10,000 children involved in, or at risk of involvement in, the worst forms of child labor, including commercial sexual exploitation and other work situations, consistent with the priorities established by the GODR's National Plan. The project will have distinct efforts in regions that correspond to local conditions and will work with key partners in each of the project zones – Eastern Cibao (rural) with UCNE (university); Eastern Cibao (urban) with UCNE; border regions with FUNDECO-Save the Children, Plan Internacional, and Vision Mundial; southeastern region with Plan Internacional and Vision Mundial; Santo Domingo with Instituto Dominicano de Desarrollo (IDDI); Santiago/Puerto Plata with Catholic Relief Services; San Pedro de Macoris (urban) with FUNDECO-Save the Children, Samana with Samanenses; Las Terranas with Fundazucar (primarily CSE); Boca Chica with Catholic Relief Services; and Tourism and Agriculture in eastern

⁴⁶ In October 2009, the San Diego Padres teamed with San Diego Padres teamed up with the MLB-DDA, IDDI, and Sur Futuro to launch the Space to Grow project in the community of Najayo, where the team's Dominican Baseball Academy is located. www.mlb-dda.org/en/index.php?option=com_content&view=article&id=43&Itemid=58.

region (three projects) with Vision Mundial, Fundacion Pringamosa, and FUNDECO-Save the Children.

- *Espacios para Emprender* (EpEs - Spaces for Entrepreneurship) is an initiative to build upon EsPc by providing adolescents who have dropped out of school or attend infrequently the necessary basic education and life skills through training in entrepreneurship and leadership to enable them to continue their formal schooling and/or attend vocational training courses. It also provide micro-enterprise training.⁴⁷ There are currently 46 EpEs throughout the DR.
- January 2008, the US DOL and GODR Ministries of Labor and of Education launched a multi-year \$4 million project to support public-private partnerships for up to 8,500 children to prevent exploitive labor situations. Implemented in collaboration with EDUCA and INTEC, a leading university in the Dominican Republic, it will improve the quality of and access to basic and vocational education as well as develop corporate codes of conduct in sectors prone to child labor through public-private partnerships.
- ILO – IPEC in 2009 completed a variety of programs in various regions in the DR that reached up to 15,000 children. These include in: Barahona, Batoruco and Independencia “Action on the Bateyes” on 8 bateyes with VISION MUNDIAL; Santo Domingo on Prevention and Eradication of WFCL through Education (in Cristo Rey, Villa Juana, Maria Auxiliadora) with Muchachas y Muchachos Con Don Bosco and Niños del Camino; Prevention and Eradication of Trafficking in Persons in agriculture in the municipalities of Pueblo Viejo and Sabana Yegua in Azua and Bombita in La Cienega, and the communities of las Terrenas, el Rosario and los Negros (livestock) with VISION MUNDIAL; CSE in Santiago Eradication in the Cienfuego area of Santiago with Nucleo de Apoyo de La Mujer, Niños Con Esperanza, and Accion Callejera; and programs in San Juan de la Maguana with FUNDASEP and San Cristobal with FUNDEBMUNI.
- DevTech Systems recently completed a successful 4-year US DOL-supported project targeting 5,500 at risk children and to enroll children in transitional education programs, vocational programs, or the formal education system. It focused on hazardous agriculture, child commercial sexual exploitation and urban street children in the regions of Constanza, San Francisco de Macoris, Cotui, Pimentel, Nagua, Boca Chica, Sosua, Caberete, Las Terrenas, Santiago, and Santo Domingo.
- USDOL capacity-building program to improve labor law compliance among the DR-CAFTA partners with US \$2.6 million to strengthen outreach efforts in the region’s agriculture sector.
- Public campaigns heighten awareness on child labor issues, including “This isn’t a game,” on child domestic work and “I’m not working anymore,” on hazardous child labor in the agricultural sector.⁴⁸
- GODR anti-trafficking programs across the country have reached over 5,000 students. The Migration Direction’s Alien Smuggling and Trafficking in Persons Prevention Unit, in coordination with Ministries of Labor and Education, offers courses to warn children of the dangers of alien smuggling, commercial sexual exploitation, and trafficking. The Attorney General’s Unit of Education and Prevention offers educational, training and prevention courses in various schools in the Santo Domingo area on trafficking in persons, illegal trafficking in migrants, and commercial sexual exploitation.⁴⁹
- PGR - teacher training program on child labor issues for teachers and children in the schools and other key venues. The Ministries of Labor and Education continue to support the Combating Child Labor through Education program, which established several camps hosting large numbers of children and adolescents.
- November 4 -5, 2009, Conani “Seminario-Taller: Retos y Desafíos para la Creación de un Modelo de Intervención Integral a Niños, Niñas y Adolescentes en Situación de Calle y/o en Riesgo con Consumo de Drogas,” (Workshop on Challenges for the Creation of a Comprehensive

⁴⁷ DevTech publishes the materials for EsPc and EpEs (and creation of microenterprises) on its website (www.devtechsys.com/publications/epe.cfm).

⁴⁸ Implementation Plan for the White Paper Recommendations 2007-2010, April 2007 (ILO website).

⁴⁹ E.g., *Strategic Development Plan for Education in the Dominican Republic 2008-2018* and programs that offer alternative education for prevention and eradication of worst forms of child labor; produced training materials for teachers, parents and others involved with programs of sexual education in primary school curriculums, and radio programming that includes education campaigns on child labor issues.

Intervention Model for Children and Adolescents in the Streets and/or Drug Abuse Risk), which brought together various government agencies to analyze the protection systems of other countries in the hemisphere and the risks faced by street children in the DR, and to improve the DR's approaches to and effective coordination in these situations.

- The National Association of Hotels and Restaurants (ASONAHORES) signed the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism sponsored by UNICEF and ECPAT (End Child Prostitution, Pornography and Trafficking of Children for Sexual Purposes). However, not all hotels are ASONAHORES members, particularly smaller or independent establishments. As noted, the tourism sector is being considered as the focus of a new GODR – U.S. DOL project on work conditions. For several years, training has been provided to workers in the tourism industry based on material produced by the World Tourism Organization. Individual companies also are active in these efforts, including a national campaign against the commercial sexual exploitation of children and adolescents by Burger King restaurants and advertisements in Palacio del Cine cinemas.
- A sugar consortium, in coordination with Dominican Institute for Integral Development (IDDI), the GODR development entity, and FUNDECO-Save the Children, has added 8 Espacios para Crecer facilities in the sugar communities, benefiting an additional 370 students, as well as distributed 5,000 flyers to underage persons about their rights.⁵⁰

The GODR also participates in multilateral efforts. In addition to supporting the various IOM projects and working with ILO/IPEC, it actively participates in the process of the Verification Reports on Implementation of the White Paper Recommendations of the DR-CAFTA, which meets semi-annually.

D. The DR has instituted significant social policies on child labor that include government policies or plans, funded and otherwise, to combat the worst forms of child labor

The GODR continues to mainstream the issues of combating child and illicit child labor into government policies. The goal of tackling these issues is reflected in many of the GODR's broader social programs and policies, which acknowledges that child labor often has its roots in social, cultural, and economic conditions. Sometimes children work to help support families that exist on the margins. As in many countries, addressing labor in informal sectors, small businesses, private households, and agriculture sectors often present the greatest challenges. Children may accompany parents who work in agriculture or family-run businesses, as schools often do not have full-day sessions and parents have nowhere else safe to leave them.

(1) Government-supported initiatives specifically to prevent or withdraw children from exploitive work situations, such as school scholarships conditioned on a child's withdrawal from child labor including, if possible, funding levels for such initiatives

Examples of legal authorizations, e.g.:

- Law 116 (1980), Ley Orgánica del Instituto Nacional de Formación Técnico Profesional (INFOTEP), creating the Instituto de Formación Técnico Profesional (INFOTEP), an autonomous entity responsible for professional and vocational training⁵¹
- Law 49-00, creating Secretaría de Estado de la Juventud to represent interests of persons ages 15 to 35 in relevant GODR agendas

⁵⁰ Verification Report on the Implementation of the White Paper Recommendations, February 2008-July 2008, pp. 103 & 116, February 2009.

⁵¹ INFOTEP's primary objective is "providing technical professional training to workers in all areas of the economy and levels of employment, in order to organize training programs, mastery, specialization and retraining of working adults, and provide didactic and financial support to those public or private entities, either permanent or temporary, that train employees". It has 574 registered training centers in the DR; delivers on-site courses and training programs for companies; and coordinates training programs with the free zones and tourism associations. Both local companies and foreign affiliates use INFOTEP services. Its activities are funded through 1% payroll levy on all private employers in the DR and a 0.5% contribution from employee bonuses. Its board is a tripartite structure with representatives of the GODR, business and labor.

- Various decrees, e.g., 566-01 and 59-06 for National Steering Committee Against Child Labor

Many of the GODR government-wide policies, actions, and activities already discussed include a social component, e.g., :

- Comprehensive Program for the Protection of Street Children and Adolescents in the Dominican Republic 2007-2012
- Ministry of Labor - Programa de Juventud y Empleo, a workforce training and modernization program (with support from IDB) that provides training for up to 37,500 youths without substantial resources.⁵²
- March 2009, Ministry of Labor and CONANI program to train and give productive work experiences to youths ages 16 to 19 who will then be enrolled in the Ministry's national electronic job bank.

Other GODR government-wide policies, actions, and activities that are more focused on social or cultural issues include a child labor component, e.g.,

- Solidarity Program, coordinated by Office of President, which includes among other elements a conditional cash transfer program that currently benefits over 427,000 children between age 6 and 16 of extremely poor families. Overseen by the Office of the Vice President, it is designed to increase number of students (requires 85% school attendance), reduce child labor, and require parents to protect children from the worst forms of child labor, by providing families stipends through "Comer es Primero," to purchase of food, medicines and school supplies, and "Incentivo a la Asistencia Escolar" (ILAE), to buy school supplies, uniforms, medicines, and the like. The program will be sustained and can be expanded with a recent IDB grant.
- Agricultural Bank loan agreements include a clause that prohibits recipients from using child labor and guarantees that they send their children to school
- Technical training, such as INFOTEP courses
- Dominican Education Plan (coordinated and executed by Ministry of Education)
- Student Merit Program (coordinated by Ministry of Education)
- Student Assistance Card program (coordinated by Ministry of Education).
- Youth Development Project of World Bank Project P096605 (Proyecto Desarrollo Juvenil approved 2006), implemented in connection with Proyecto Juventud y Empleo, to improve the employability of poor at-risk youth by increasing access to a first work experience for youth at risk with pilot training courses and internships that promote entrepreneurship and self-employment, particularly in rural areas; building capacity in Labor Ministry and INFOTEP to effectively focus on at-risk youth with program coordination, implementation and evaluation; and strengthening and expanding "Second Chance" education programs of basic and secondary education for adults.⁵³
- National Plan on Gender Equality 2006-2016, coordinated by the Secretary of State for the Women, includes programs for protection and promotion of the labor rights of women and the care of their children during childhood
- *Progresando* to provide income generating opportunities to families of children at-risk for commercial sexual exploitation, which in 2009 held 5 training workshops each for 200 participants to train volunteers as multipliers of information to vulnerable families to reach up to 100,000 families
- National Anti-Poverty plan (Plan Nacional para Combatir la Pobreza)
- PROMIPYME (Micro, Small and Medium Businesses agency), that provides training to trafficking victims to allow them to establish their own businesses
- The program of the Ministry of Women, in conjunction with the Office of the First Lady, focuses on street children that seeks, among other goals, to provide education and services so children are removed from situations in which they are, or could become, victims of sexual exploitation.

⁵² <http://www.set.gov.do/legislacion/juventudyempleo/default.asp>

⁵³ See ILO "Juventud y Trabajo Decente y Las Vinculaciones Entre Trabajo Infantil y Empleo Juvenil en Centroamerica, Panama y Republica Dominicana," p. 109, October 2008.

The GODR also is active in regional efforts. "Regional Features for the Repatriation of Victims of Trafficking and Vulnerable Populations" was approved in the framework of the Regional Conference on Migration, Population Process. The goal is to assure that assistance responds to the interests of the child or adolescent, and to collaborate among countries to identify and confirm nationality, determine the situation of the relative(s) to whom they will return, and implement protection measures for social reintegration. In June 2008, a Dominican government delegation participated in the workshop "Strengthening Regional Cooperation for the Reintegration of Trafficking Victims" in Managua, Nicaragua, that identified minimum standards to produce a regional action project on reintegration of trafficking victims.

Children whose parents live in an undocumented status, be they Dominicans without documentation or undocumented residents in the DR, always live with greater uncertainty. However, the GODR has taken steps to ameliorate those impacts on children. For example, in education the GODR authorizes all children to attend primary school without regard to immigration status.⁵⁴ Article 63 of the new Constitution recognizes the right of all persons to education. Similarly, Dominican hospitals provide care to persons regardless of nationality or proof of nationality. Article 61 of the new Constitution recognizes the right to health of all persons. Maternity services are one area in which the DR historically has provided disproportionate levels of services without regard to nationality. For example, the Director of the country's largest public maternity hospital reported that 20 of 80 births on average every day are to Haitian mothers, with Colombians the next largest population.⁵⁵

Conservative estimates are that more than 1,000,000 Dominican citizens do not have birth certificates or identity credentials, which is at least 12 percent of the Dominican population. In poorer regions, up to 25 percent of Dominicans lack identity documents - a statistic characteristic to 20-25 percent of the population in Latin America. The 2005 Solidarity program includes a component "Dominicanos con Nombre y Apellido," which provides free and preferential processes to obtain documentation. In December 2008, President Fernandez signed legislation approving a World Bank loan to enable the JCE to reach a population of 400,000 mostly poor, rural Dominicans who never registered their births, and thereby may have been excluded from certain public services and assistance.⁵⁶

The DR has a late registration process for births that are not registered within the time required by Dominican law. To facilitate registrations, the DR has increased the number of local offices that can process applications, regularized administrative processes, initiated a program to reach children enrolled in primary schools, and equipped Specialized Units for Late Declarations.⁵⁷ The National Assembly and Inter-Institutional Commission for Reform of the Administration of Justice for Children and Adolescents (CEJNNA - Comisión para la Ejecución de la Justicia de Niños, Niñas y Adolescentes) support UNICEF's efforts to encourage late registrations of children (e.g., "Yo Tengo Derecho a una Identidad" launched in January 2007).⁵⁸

⁵⁴ Some NGOs recently have shifted their criticisms from children to focus on the inability of undocumented persons to continue their education in the DR post-basic education and at the university levels. Minors Act (1994) requires 8 years of compulsory education.

⁵⁵ See e.g., elcaribe.com.do/index.php?option=com_content&view=article&id=203071:haitianas-son-24-pacientes-hospital-&catid=104:nacionales&Itemid=115 ("Normally, five or six women arrive at the same time with an advanced delivery. They bring them on a bus and leave them without a single relative to support them."). See also Petrow, J., "Taking Direction from the Grassroots," FOCALPoint March 2010 (Canadian publication) ("In the border town of Belladère, Rezo Fanm has been working with the International Committee of the Red Cross to survey residents and the displaced. According to Delmond Enaëlle of Rezo Fanm, "dozens of pregnant women are trying to cross to the Dominican Republic every day to get medical care.").

⁵⁶ World Bank Social Protection Investment Project (7481-DO) and P116369 (8/2009).

⁵⁷ www.jce.do/regcivil. Mobile vans are in Provincia La Romana, Municipio Los Alcarrizos, Provincia San Juan de la Maguana, 1ra. Brigada Ejercito Nacional, DN, and Provincia Puerto Plata. The JCE regularly announces the routes/location for the mobile vans in communities.

⁵⁸ Other organizations support registration activities, e.g., Universal Birth Registration Plan, Country Report (Community level efforts (creating development agendas in at least 24 communities in 3 provinces to identify and/or prioritize sub-registration problem; motivating local groups; with Peace Corps helped Quita Coraza start registration process, and by August 2008, at least 85 people (65 children and 20 parents) received birth certificates; 20 children from Batey Central

Other recent GODR actions include:

- In January 2009, Ministry of Public Health and Social Assistance (SESPAS) issued Resolution No. 18 initiating program to issue Certificates of Live Birth, an official document certifying that a birth in the Dominican Republic and the basic document required to register a birth at the Civil Registry Office, to all Dominicans and foreigners at public and private health centers throughout the country, which will include the parents' identification data, information on the newborn, and administrative data on the facility where the birth occurred
- In October 2008, JCE issued instructions to Civil Registries that applications for children age 16 and under should be processed without requiring ratification by any court or notarial act, thus avoiding backlogs that had been created by the process that was basically pro forma⁵⁹
- In October 2008, the JCE announced that it would establish official birth registration offices in 51 hospitals throughout the country, covering about 80 percent of hospital births to address under-reporting or non-reporting of births.⁶⁰

Evidencing the commitment to an efficient and effective civil registry, in February 2009, the JCE hosted the "International Meeting of Civil Registry, Identity and Migration Administrators." The goal was to confront common regional challenges with the exchange of ideas, understanding of experiences, assimilation of best practices, and introduction of improvements to registration systems. The JCE Chief Magistrate and the Interior and Police Minister co-hosted the event attended by representatives of 21 nations and the Secretary General of the OAS.

Documenting births of non-Dominicans is governed by the General Law on Migration Law 258-04 and Resolution 02-2007, which establish a registration process to enable those children to obtain nationality papers from the appropriate country. Children of non-resident mothers can receive "constancias de nacimiento" (certifications of birth) that can be registered in a "Foreign Registry Book." Children can use that to obtain official birth certificates from the governments of their nationality. Historically, the overwhelming majority – over 90 – have been Haitian nationals. To facilitate registrations, the JCE has announced that it will work with Haitian officials to expand locations in the Dominican Republic where the Government of Haiti can record births of Haitians. At the same time, the GODR faces continuing challenges with false documents presented by mothers giving birth in Dominican hospitals.⁶¹

E. Worst Forms of Child Labor Sectors

This document provides substantial information on the broad range of GODR, and GODR-supported, efforts to address inappropriate child labor in its various manifestations.

obtained birth certificates; Azua program unit completed 29 birth registration cases in 2008 with 50 more underway, and between 2008 and 2009, completed 120 cases in three other communities in program) and through alliances (Children's Protection Net in Barahona province, which implemented several campaigns in Batey Central urban area; Peace Corps in campaigns in Barahona and Pedernales, leading to people obtaining birth certificates; Barahona Regional 01 division helping children register at schools to get birth certificates, with the support of regional JCE office; representative of Centre for Studies and Legal Advisory Services of Dominican episcopate, which handles legal advice to communities with action plans; civil registration office in Vicente Noble Municipality to help non-registered people in Quinta Coraza obtain birth certificates in reasonable timeframe; Children's Provincial Protection Net to help 20 children obtain birth certificates.) <http://plan-international.org/birthregistration/resources/country-case-studies/dominican-republic>.

⁵⁹ JCE reports that courts routinely confirm JCE decisions; however, MUDHA President criticized the initiative as an abuse of power that allows JCE to annul birth registrations without review; Ley 218-07, creating a 3-year "amnesty" period (2007-2010) for children under age 16 from late registration requirements that otherwise could impede registration (e.g., certifications that increase costs).

⁶⁰ In 2007, the JCE published Resolution 8-2007 which allowed minors to obtain their cédulas of minority that enables them declare their children (children born to mothers who are minors).

⁶¹ See "Haitianas van a maternidad usando cédulas adulteradas," altered Dominican identity cards presented by Haitian mothers, flagged when hospitals prepare birth certificate information. *ListinDiaro.com*, January 17, 2009.

As specifically discussed in the National Strategic Plan to Eliminate the Worst Forms of Child Labor in the Dominican Republic (2006-2016) and specifically Chart 2, page 28, the GODR has described the areas where child labor concentration has been identified. The National Strategic Plan also describes the legal framework (discussed above) to address these situations as well as other measures discussed in this document to address these situations.

In its work, the GODR works transparently, sharing the reports that signatories to ILO Convention No. 182 make through the ILO process with key labor organizations such as Confederación Nacional de Trabajadores Dominicanos (CNTD); Confederación Autónoma Sindical Clasista (CASC); Confederación Nacional de Unidad Sindical (CNUS); Confederación Patronal de la República Dominicana (COPARDOM); Consejo Nacional de la Empresa Privada (CONEP); and Asociación Dominicana de Zona Francas (ADOZONA).

Conclusions Regarding WFCL and Child Labor

As noted, the GODR has made significant progress in reducing child labor from about 436,000 in 2000 (last ILO study), to 247,000 in 2004, to 155,000 in 2008. That represents a decrease from over 18% in 2000 to 5.8% in 2008.⁶² The GODR's longstanding, deep commitment to addressing issues of children who work does not underestimate the challenges presented given history, political-economic dynamics, and cultures. Rather, the commitment reflects the importance of addressing child labor on all of these levels, both as a government as well as with other governments, international organizations, NGOs, and civil society.

The Embassy of the Dominican Republic hopes that the information provided in this document will assist the U.S. DOL as it prepares the reports required by U.S. law. As noted, the information in many instances can only be a starting point for a thorough and objective analysis of the nature of these issues in the DR and the significant, comprehensive, and fact-based efforts of the GODR, many committed NGOs and private sector entities, and civil society to address them.

Sincerely,



Roberto B. Saladín
Ambassador



⁶² Amargós, Oscar for OIT-IPEC, "TRABAJO INFANTIL Y POLÍTICAS PÚBLICAS EN LA REPÚBLICA DOMINICANA: BALANCE AL 2008," Proyecto: Fomento de una cultura de cumplimiento en materia laboral, Componente: Desarrollo de una Hoja de Ruta para hacer de Centroamérica, Panamá y República Dominicana una Zona Libre de Trabajo Infantil, No. ATN/SF-10219-RG, September 31, 2008.

Attachments

Bibliography of 2009 TVPRA Child and Forced Labor Products (Excerpts and Annotated)

Constitution of the Dominican Republic (effective January 24, 2010)

Laws

- Law 136-03, Code for Protection of Fundamental Rights of Children and Adolescents
- Law 137-03, Illegal Trafficking in Migrants and Trafficking in Persons
- Law 16-92, Labor Code
- Law 53-07, Technology Crime Law
- Law 24-97, Law Against Family Violence
- Law 49-00, Ministry of Youth

Resolutions

- Resolution 37-05, Provincial, Municipal and State Committees for Eradication of Child Labor
- Resolution 30-93, Children without 14 years of schooling
- Resolution 52-04, Dangerous and other unsuitable work for persons under age 18
- Resolution 29-93, Light work
- Resolution 31-93, Night work for minors in concerts and theatrical productions
- Resolution 2-06, Local Committees for the Protection of Children

Government Programs

- National Strategic Plan to Eliminate the Worst Forms of Child Labor in the Dominican Republic (2006-2016)
- Action Plan for the Eradication of Abuse and Commercial Sexual Exploitation of Boys, Girls, and Adolescents
- Lineamientos de políticas de protección integral de Niños, Niñas y Adolescentes en situación de calle en la república dominicana (2007-2012) (Comprehensive Program for the Protection of Street Children and Adolescents in the Dominican Republic)
- Programa de Atención Integral
- Strategic Development Plan for Education in the Dominican Republic 2002-2012

Other

- Amargós, Oscar for OIT-IPEC, "TRABAJO INFANTIL Y POLÍTICAS PÚBLICAS EN LA REPÚBLICA DOMINICANA: BALANCE AL 2008," Proyecto: Fomento de una cultura de cumplimiento en materia laboral, Componente: Desarrollo de una Hoja de Ruta para hacer de Centroamérica, Panamá y República Dominicana una Zona Libre de Trabajo Infantil, No. ATN/SF-10219-RG, September 31, 2008
- Embassy of the Dominican Republic, Discussion Paper: Trafficking in Persons, the Dominican Republic, and the Government's Anti-Trafficking Commitment and Efforts, March 2010.